



**A Publication of the
DEPARTMENT OF REGULATION AND LICENSING**

Volume 13, No. 2 FOR REAL ESTATE LICENSEES October, 2000

A Message from the Chair

By James R. Imhoff, Jr.

I have had the opportunity to travel to a few locations in the state lately to provide a REB update. I have also been invited to the Wisconsin Realtor's Association Convention in October for the same purpose.

I have been discussing areas of concern that I have addressed in past issues of this digest, including proper and timely agency disclosure, improper delivery of financing commitment letters, handling personal property included in the offer, the right of buyers to include the buyer agency fee in the offer, and the right of licensees to complete contracts only when a listing contract or buyer agency agreement is in force.

There are a few new issues that need discussion.

First, too many contracts are being drafted where the writing is not legible or where the sentence structure is not understandable. In many of the instances that have been passed on to me by the investigators, the buyers and sellers have even signed the document.

THE WISCONSIN REAL ESTATE BOARD

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Remember that where a problem arises and where the contract may be declared void for either of these reasons, it is the drafter of the contract that may be held responsible. Agents and their supervising brokers would both have responsibility.

With software now available throughout the marketplace that includes all Wisconsin forms, there should be no reason for hand-written offers that are not readable or cannot be understood.

Second, our license law warns licensees to be careful not to practice in areas of real estate where they are not competent, or at least not to practice without professional assistance. This issue originally applied to examples such as licensees with residential expertise being involved in commercial transactions beyond their experience and expertise, or in the reverse, a licensee with expertise in commercial or residential expertise being involved in farms or recreational land transactions where there is a lack of knowledge. The warning is now being extended to licensees who practice outside of the geographic area of their expertise.

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There has been discipline in a few cases where licensees traveled to an area outside of their usual marketplace to be involved in a transaction. In these cases the licensee was incompetent because the licensee failed to know, determine, and disclose factors affecting a given property. In one instance, the licensee failed to disclose that a new highway was planned to adjoin the residential property that he or she had sold. Being from 100 miles away and not knowing what was common knowledge to everyone in the community did not exonerate the licensee. The licensee has an affirmative obligation to research, understand, and disclose outside influences that may affect the property. Our licenses certainly permit us to practice anywhere in the state and in all areas of real estate, but heed the warning as to competency.

And finally, much has been written in other publications and venues about lender fraud. We are still seeing the problem and moving to discipline licensees who are involved. The most prominent form of fraud involves the purchaser inflating the purchase price and then asking the seller to take back a second mortgage for 10% to 20%, with the buyer then obtaining a first mortgage for the difference. After the closing, the seller, by side agreement, forgives the second mortgage without the first mortgage lender having been notified. This is a violation for which the licensee may be disciplined.

In a few cases, the licensee said that the loan officer told him or her to do it this way. This is no excuse and would not exonerate the licensee. Just do not get involved in such situations.

Complaint Statistics for 2000

(January to August 18)

Complaints Received - 195

Complaints Closed After Screening - 109

Complaints Closed After Investigation - 41

Complaints Closed With Formal Action – 25

Note: The number of complaints closed includes complaints prior to 2000.

License Fees

The Biennial Budget Bill that became effective on October 29, 1999, contained the following license fee changes:

Original License Fee: ~~\$41~~ \$44

Broker Renewals: ~~\$125~~ \$109

Salesperson Renewals: ~~\$73~~ \$79

Business Entity Renewals: ~~\$71~~ \$57

Timeshare Salesperson Renewals: ~~\$61~~ \$103

New Credential Holder Query

Be sure to check out the department's new credential holder query feature on the Internet. You will find it at <http://www.drl.state.wi.us>.

By accessing this site you will be able to verify whether an individual or business entity holds or has held a license in any of the professions regulated by the department. You will also find a list of the licensed employees under each broker or business entity.

Legislation Update

Two companion bills, relating to the supervision of salespersons by real estate brokers were introduced in the last legislative session. These bills were numbered AB 566 and SB 286. The intent of these bills was to repeal the requirement that each branch office have a full-time branch office manager. However, the bills did not pass. The proposals may be introduced again in the next legislative session.

Administrative Rule Revisions

An administrative rule revision has advanced through most of the rulemaking process. Some items considered early in the process have been put on hold; however, the proposal still contains a few clarifications to existing rules, relating to advertising, confidentiality of offers, disclosure of licensure, and negotiations through a broker. The items placed on hold relate to the responsibilities of broker-employers to adequately supervise their licensed employees and independent contractors.

Contractual Forms Revisions

The following contractual forms are in the process of being revised or created:

WB-6 Business Listing Contract – Exclusive Right to Sell

WB-16 Offer to Purchase – Business With Real Estate

WB-17 Offer to Purchase – Business Without Real Estate

WB-37 Exclusive Listing Contract for Lease of Residential Property

These forms should be available within a month or two. The optional use date on these forms will indicate that licensees may use them as soon as the forms are available from the printer; however, the mandatory use date (the date on which older forms may no longer be used) will occur shortly after you receive the next issue of the Regulatory Digest.

The Contractual Forms Advisory Council is also considering revising the WB-26 Timeshare Contract (Sale by Developer) and WB-27 Timeshare Contract (Resale by Non-Developer). Revision drafts have been mailed to a list of 25 persons interested in issues in timeshares. A draft of a new WB-8 Timeshare Listing Contract was also mailed to interested persons. Depending on the comments received from these persons, the approved timeshare forms could be eliminated, revised rather quickly or revised after considerably more work.

Reports of Disciplinary Decisions

The Department of Regulation and Licensing publishes the Reports of Decisions on a monthly basis. The reports contain disciplinary orders issued by the professional regulatory boards and by the Department. You may access these disciplinary orders at the department's Web site. The address is: <http://badger.state.wi.us/agencies/drl/Regulation/html/nw2.html>

The Reports of Decisions include final orders issued by the Department of Regulation and Licensing and the Boards attached to the Department. Decisions routinely included are decisions in cases initiated by the filing of a formal complaint or petition for summary suspension, disciplinary decisions reached through stipulation, cases dismissed without discipline, interim orders staying imposition of discipline, orders modifying limitations previously imposed and court decisions relating to orders issued by the Department or a Board. The reports do not include decisions to deny or grant an initial credential application or renewal application unless the grant or denial followed a hearing and relates to a ground for discipline.

Reports are prepared each month and take about four weeks to process from the close of the reporting period. The decisions are indexed by year and month, and within each, by respondent and by profession.

Renewal of Licenses

Look for license renewal notices in your mail box around November 7, 2000. Now's the time to make sure that you have already satisfied the continuing education requirement or that you will be able to satisfy the requirement before the end of this year.

Something new is on the horizon, relating to your renewals. The department is feverishly working to implement the computer programming that is necessary for you to be the first group of licensees to be able to renew your licenses directly on the Internet. We are trying, but we may run out of time. This would be just the beginning of a whole new e-commerce initiative in the department. Within a year or two we hope to implement interactive computer processes for filing applications for initial licenses and other types of applications.

Brokers, please make sure that all of your employees send a renewal application to the department by December 31, 2000. You may want to ask your employees for proof of renewal sometime around the middle of February, 2000. If you employ unlicensed people, both you and the licensee can be disciplined by the board.

CONTRACTUAL FORMS APPROVED BY THE WISCONSIN DEPARTMENT OF REGULATION AND LICENSING FOR USE BY REAL ESTATE LICENSEES

(Most recent changes in italics.)

WB-1	Residential Listing Contract-Exclusive Right to Sell – 4/1/99 (optional use date); 11/1/99 (mandatory use date).
WB-2	Farm Listing Contract-Exclusive Right to Sell - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-3	Vacant Land Listing Contract-Exclusive Right to Sell - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-4	Residential Condominium Listing Contract-Exclusive Right to Sell - 4/1/00 (optional use date); 9/1/00 (mandatory use date).
WB-5	Commercial Listing Contract-Exclusive Right to Sell – 4/1/00 (optional use date); 9/1/00 (mandatory use date).
WB-6	Business Listing Contract-Exclusive Right to Sell - 3/1/97 (optional use date); 9/1/97 (mandatory use date).
WB-11	Residential Offer to Purchase – 4/1/99 (optional use date); 11/1/99 (mandatory use date).
WB-12	Farm Offer to Purchase - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-13	Vacant Land Offer to Purchase - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-14	Residential Condominium Offer to Purchase - 4/1/00 (optional use date); 9/1/00 (mandatory use date).
WB-15	Commercial Offer to Purchase - 11/1/95 (optional use date); 4/1/96 (mandatory use date).
WB-16	Business Offer to Purchase - 3/1/97 (optional use date); 9/1/97 (mandatory use date).
WB-16a	Addendum to Business Offer to Purchase - 3/1/97 (optional use date); 9/1/97 (mandatory use date).
WB-24	<i>Option to Purchase - 6/1/00 (optional use date); 9/1/00 (mandatory use date).</i>
WB-25	Bill of Sale - 3/1/00 (optional use date); 7/1/00 (mandatory use date).
WB-26	Timeshare Contract (Sale by Developer) - 4/6/90 (optional use date); 6/1/90 (mandatory use date).
WB-27	Timeshare Contract (Resale by Non-Developer) – 4/6/90 (optional use date); 6/1/90 (mandatory use date).
WB-35	<i>Simultaneous Exchange Agreement – 6/1/00 (optional use date); 9/1/00 (mandatory use date).</i>
WB-36	Buyer Agency/Tenant Representation Agreement - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-37	Exclusive Listing Contract for Lease of Residential Property - 5/11/92.
WB-40	Amendment to Offer to Purchase - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-41	Notice Relating to Offer to Purchase - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-42	Amendment to Listing Contract - 5/26/94 (optional use date); 9/1/94 (mandatory use date).
WB-43	Amendment/Notice relating to Offer to Purchase. This form was replaced by WB-40 and WB-41 above.
WB-44	Counter-Offer - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-45	Cancellation Agreement and Mutual Release – 3/1/00 (optional use date); 7/1/00 (mandatory use date).
WB-46	Multiple Counter-Offer - 7/1/99 (optional use date); 1/1/00 (mandatory use date).
WB-47	Amendment to Buyer Agency Contract -5/26/94

Disciplinary Actions

WILLIAM J MORRIS

MILWAUKEE WI

REPRIMAND/COSTS

Practiced real estate without having a valid Wisconsin real estate license between January 1, 1997 and December 17, 1999. Effective 3/23/2000. Secs. 452.03, 452.14(3)(L), Stats. RL 24.17(3) Case #LS0003236REB

LEO M PETERS

MILWAUKEE WI

SUSPENDED/COSTS

Performed broker-employer and trust account duties requiring a broker's license while possessing a salesperson's license. Failed to maintain a required cash journal and ledger. Failed to do required monthly account reconciliations, trial balances and validation. Allowed an unlicensed individual to act as a real estate agent. Effective 4/27/2000. Secs. 452.03, 452.14(3)(i),(L), Stats. RL 17.03(4), 17.07, 17.08(1),(2), 17.09(1), 18.09, 18.13(1),(2),(3),(4),(5), 24.17(3) Case #LS0004272REB

DONNA M BROWN

MENASHA WI

EDUCATION/COSTS

Provided services which she is not competent to provide, and failed to be knowledgeable regarding laws, public policies and current market conditions on real estate matters and failed to assist, guide and advise the buyer based upon these factors. Failed to diligently exercise reasonable skill and care in providing brokerage services to all parties in transactions. Ordered to complete course modules within 12 months. Effective 3/23/2000. Secs. 452.14(3)(i),(L), 452.133(1)(b), Stats. RL 24.03(2)(a),(c) Case #LS0003234REB

LYNDA P PARFITT

OSHKOSH WI

REPRIMAND

Failed in her responsibility to supervise the brokerage services provided to members of the public. Ordered to complete a course module within 12 months. Effective 3/23/2000. Sec. 452.14(3)(i), Stats. RL 17.08(1) Case #LS0003234REB

PAPER VALLEY CONSULTANTS INC

OSHKOSH WI

REPRIMAND

Licensed real estate corporation employed Brown, a real estate broker, and Parfitt, the supervising broker of Brown. Effective 3/23/2000. Secs. 452.12(3), 452.14(3)(i), Stats. Case #LS0003234REB

DAVID A NEUVILLE

STURGEON BAY WI

STAYED SUSPENSION/ LIMITED/COSTS

Failed to use reasonable skill and care in providing real estate brokerage services. Suspend 6 months effective 5/2/2000. Suspension is stayed for 3 months with limitations imposed. Secs. 452.133(1)(b), 452.14(L), Stats. Case #LS0004271REB

WILLIAM O OESTREICH

LOYAL WI

SUSPENDED/COSTS

Failed to place into writing the exact terms of commission agreement he claims to have entered into and failed to have the true corporate owner of property stated on the listing contract and other agreements. Failed to diligently exercise reasonable skill and care in providing brokerage services to

all parties. Engaged in conduct that constituted improper, fraudulent or dishonest dealing. Effective 7/28/2000. Secs. 452.14(3)(f),(i),(k),(L), Stats. RL 24.03(2)(b),(c), 24.08, 24.17(1) Case #LS0007273REB

HAROLD C PETERSON

GREEN BAY WI

REPRIMAND/COSTS

Failed to reduce to writing verbal extension of time to sign an amendment to offer to purchase. Effective 7/27/2000. Sec. 452.14(3)(i), Stats. RL 24.08 Case #LS0007274REB

JOHN A SOBOTA II

MENOMONIE WI

REPRIMAND/COSTS

Failed to put into writing commitments related to safe water contingency and any modification of that contingency so as to reflect the exact agreement of the parties. Failed to use reasonable skill and care in providing brokerage services. Effective 5/24/2000. Secs. 452.133(1)(b), 452.14(3)(L), Stats. RL 24.08 Case #LS0005246REB

ANDALE REAL ESTATE INC

MENOMONIE WI

COSTS/FORFEITURES

Employed a broker who failed to place into writing commitments related to the safe water contingency and any modification thereof, and failed to use reasonable skill and care in providing real estate brokerage services. Effective 5/24/2000. Sec. 452.12(3)(a), Stats. Case #LS0005244REB

JON M RUSHMANN

STRUM WI

REVOKED

Failed within a reasonable time to account for or remit moneys coming into its possession which belonged to another person. Illegally converted real estate trust funds to his own use. Effective 3/23/2000. Sec. 452.14(3)(h),(k), Stats. Case #LS0003237REB

SUSAN L HOUSE

CEDARBURG WI

REPRIMAND/COSTS

Provided real estate brokerage services without a written and signed agency agreement authorizing those services. Failed to maintain copies of offers to purchase prepared in connection with providing brokerage services. Effective 4/27/2000. Secs. 452.135(1), 452.14(3)(i),(L), Stats. RL 15.04, 24.025(2), 24.08 Case #LS0003071REB

THOMAS D MALONE

MILWAUKEE WI

REPRIMAND/ LIMITED/COSTS

Failed to maintain required records and accounts related to all brokerage services provided by him. Effective 7/27/2000. Sec. 452.14(3)(i), Stats. RL 15.04, 18.13 Case #LS0007272REB

JAMES P VILSTRUP

PARDEEVILLE WI

REPRIMAND

Engaged in real estate practice during a time he was not licensed. Effective 7/27/2000. Secs. 452.03, 452.14(3)(L), Stats. Case #LS0007275REB

LMJ ASSOCIATES INC

WAUSAU WI

REPRIMAND

Failed to maintain a required ledger; failed to do required monthly account reconciliations, trial balances and validations. Effective 3/23/2000. Sec. 452.14(3)(i), Stats. RL 18.13(2),(3),(4),(5),(6) Case #LS0003235REB

LAVON M JENSEN**WAUSAU WI****REPRIMAND/COSTS**

As the president of LMJ Associates, Inc., and as the broker who had the supervisory responsibility of the real estate trust account at LMJ, Inc., failed to maintain a required ledger, failed to do required monthly account reconciliations, trial balances and validations. Effective 3/23/2000. Sec. 452.14(3)(i), Stats. RL 18.13(2),(3),(4),(5),(6) Case #LS0003235REB

NANCY K DROESSLER**KIELER WI****REPRIMAND/COSTS**

Provided brokerage services as a "buyer broker" without a written and signed agency agreement. Drafted terms of contingencies so indefinite that the purchase contract was illusory and unenforceable. Disbursed earnest money without a written and signed disbursement agreement. Effective 5/24/2000. Secs. 452.133(1)(b), 452.135(1), 452.137(1), 452.14(3)(i), Stats. RL 24.025(2), 24.08 Case #LS0005245REB

DOMINIC W GOODMAN III**DUBUQUE IA****REPRIMAND/COSTS**

Failed to properly supervise the brokerage activities offered by the corporation. Effective 7/27/2000. RL 17.08(1),(2) Case #LS0007271REB

DOMINIC GOODMAN REAL ESTATE**DUBUQUE IA****REPRIMAND**

Conducted brokerage activities without being licensed to do so. Provided brokerage services as a "buyer broker" without a written and signed agency agreement authorizing those services. Disbursed earnest money without a written and signed disbursement agreement and in the a manner contrary to the terms of the offer to purchase. Effective 7/27/2000. Secs. 452.03, 452.13(4)(L), 452.135(1), 452.137(1), 452.14(3)(i) Case #LS0007271REB

1999-2000 REAL ESTATE CONTINUING EDUCATION REQUIREMENTS

All licensees, except those who were issued **either a Wisconsin broker's or a salesperson's license after January 1, 1999**, must satisfy the continuing education requirement during 1999-2000 in order to renew their license in a timely manner in the fall of 2000. The license renewal deadline is December 31, 2000. Licensees may complete the 1999-2000 continuing education after that date; however, their license may not be renewed until they complete the education and pay a late renewal fee and they may not engage in the practice of real estate after that date.

There are 2 alternatives for completing the requirement, however, only one is available at this time:

Alternative # 1 Continuing Education Courses Approved by the Department

Four courses of at least 3 hours in length at a school approved by the Department. The 4th Course ONLY has options, which relate to specific areas of practice. **The Department must approve all courses before a school may grant a certificate of attendance to a licensee.**

- Course 1 Contract Law and Use of Approved Forms (Everyone must take.)
- Course 2 Buyer Agency and Ethics (Everyone must take.)
- Course 3 New Developments (Everyone must take.)
- Course 4A General Real Estate Elective (Everyone must take this elective **OR** one of the other 4 electives.)
- Course 4B Supervising Broker Elective (Everyone must take this elective **OR** one of the other 4 electives.)
- Course 4C Commercial Elective (Everyone must take this elective **OR** any of the other 4 electives.)
- Course 4D Property Management Elective (Everyone must take this elective **OR** one of the other 4 electives.)
- Course 4E Rural/Farm/Vacant Land Elective (Everyone must take this elective **OR** one of the other 4 electives.)

Alternative # 2: Continuing Education Test-Out Exam

This alternative **was** available from July 1, 1999, until June 30, 2000. An exam brochure and an application form were available from the Department. Course study materials could be purchased from the Department for \$6.00. A study guide (including course study materials and practice questions) was available from the Wisconsin Realtors Association (608) 241-2047. Members: \$20.30; non-members: \$28.75.

Department of Regulation and Licensing
Real Estate Board
P.O. Box 8935
Madison, WI 53708-8935

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Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press extension numbers as noted:

Applications Processing	Ext. 43
Education	Ext. 442
Name/Address Changes	Ext. 442
Practice Questions	Ext. 32
Complaint Forms	Ext. 12
Application Forms	Ext. 11
Fax Number	(608) 267-3816

Visit the Department's Web Site

www.drl.state.wi.us

For our new "Online Verification of Credential Holders" click on the "Credential Holder Query" button.

Copies of the Regulatory Digest are on the Web.

Send comments to dorl@drl.state.wi.us

Board Meeting Dates

2000: September 28, October 26, December 7

2001: January 25, February 22, March 22, April 26,
May 24, June 28, July 26, August 23,
September 27, October 25, December 6

All meetings are held at 1400 E. Washington Avenue, Madison WI, and are open to the public. Meetings are subject to cancellation without notice.

Wisconsin Statutes and Code

Copies of the Real Estate Board Statutes and Administrative Code can be ordered from the Department.

Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated November, 1999.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

SECTION 440.11, STATS., ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

Subscription Service

Bi-annual digest subscriptions are published for all Boards housed within the Department at a cost of \$2.11 each per year. CREDENTIAL HOLDERS RECEIVE THEIR REGULATORY DIGEST FREE OF CHARGE.

Others may send the fee and this form to the address listed above.

Subscription Service Order Form

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